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Special Litigation Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
  
Debtor.

Case Nos.:  
BK-S-06-10725-LBR  
BK-S-06-10726-LBR  
BK-S-06-10727-LBR

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
  
Debtor.

BK-S-06-10728-LBR  
BK-S-06-10729-LBR

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
LLC,  
  
Debtor.

JOINTLY ADMINISTERED  
Chapter 11 Cases

In re:  
USA CAPITAL FIRST TRUST DEED FUND, LLC,  
  
Debtor.

Judge Linda B. Riegle

In re:  
USA SECURITIES, LLC,  
  
Debtor.

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

USACM LIQUIDATING TRUST,

Plaintiff,

v.

ROBERT A. RUSSELL; DEBORAH RUSSELL;  
RUSSELL AD DEVELOPMENT GROUP, LLC;  
COPPER SAGE COMMERCE CENTER LLC;  
FREEWAY 101 USA INVESTORS, LLC;  
BOISE/GOWEN 93, LLC; DER NV INVESCO, LLC;  
FWY 101 LOOP RAR INVESTMENT, LLC; and  
BG/93 INVESTMENTS, LLC; SVRB INVESTMENTS,  
LLC,

Defendants.

Adversary No. 08-01119

**NOTICE OF ENTRY OF  
ORDER APPROVING THE  
SETTLEMENT AGREEMENT  
BETWEEN THE USACM  
LIQUIDATING TRUST AND  
THE RUSSELL ENTITIES**

Hearing Date: August 21, 2009

Hearing Time: 9:30a.m

**PLEASE TAKE NOTICE** that an Order Approving the Settlement Agreement Between the USACM Liquidating Trust and the Russell Entities (DE #7586) was entered on the 7<sup>th</sup> day of October 2009, a true and correct copy of which is attached hereto as Exhibit "A."

Dated: October 9, 2009.

**DIAMOND MCCARTHY LLP**

By: /s/ Eric D. Madden

Allan B. Diamond, TX 05801800 (pro hac vice)

Barbara Balliette, TX 00788660 (pro hac vice)

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*Special Litigation Counsel for  
USACM Liquidating Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the law firm of DIAMOND MCCARTHY LLP,  
and that on the 9<sup>TH</sup> day of October 2009, I served a true and correct copy of the foregoing  
**NOTICE OF ENTRY OF ORDER APPROVING THE SETTLEMENT**  
**AGREEMENT BETWEEN THE USACM LIQUIDATING TRUST AND THE**  
**RUSSELL ENTITIES** by electronic transmission to counsel for the Russell Entities, Scott A.  
McGath at [sam@omhdlaw.com](mailto:sam@omhdlaw.com).

/s/ Catherine A. Burrow, CLA  
Catherine A. Burrow, CLA  
Diamond McCarthy LLP

## EXHIBIT A



Entered on Docket  
October 08, 2009

Hon. Linda B. Riegle  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
  
Debtor.

Case Nos.:  
BK-S-06-10725-LBR  
BK-S-06-10726-LBR  
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BK-S-06-10729-LBR

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
  
Debtor.

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
LLC,  
  
Debtor.

JOINTLY ADMINISTERED  
Chapter 11 Cases

In re:  
USA CAPITAL FIRST TRUST DEED FUND, LLC,  
  
Debtor.

Judge Linda B. Riegle

In re:  
USA SECURITIES, LLC,  
  
Debtor.

**Adversary No. 08-01119**

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

USACM LIQUIDATING TRUST,  
Plaintiff,

v.

ROBERT A. RUSSELL; DEBORAH RUSSELL;  
RUSSELL AD DEVELOPMENT GROUP, LLC;  
COPPER SAGE COMMERCE CENTER LLC;  
FREEWAY 101 USA INVESTORS, LLC;  
BOISE/GOWEN 93, LLC; DER NV INVESCO, LLC;  
FWY 101 LOOP RAR INVESTMENT, LLC; and  
BG/93 INVESTMENTS, LLC; SVRB INVESTMENTS,  
LLC,

Defendants.

Adversary No. 08-01119

**ORDER APPROVING THE  
SETTLEMENT AGREEMENT  
BETWEEN THE USACM  
LIQUIDATING TRUST AND  
THE RUSSELL ENTITIES**

Hearing Date: August 21, 2009  
Hearing Time: 9:30a.m

Upon consideration of the motion, dated June 24, 2009 (the “Motion to Approve Settlement”), filed by the USACM Liquidating Trust (the “USACM Trust”), seeking approval of the Settlement between the USACM Liquidating Trust (the “USACM Trust”) and the following entities: Robert A. Russell, Deborah Russell, Interstate Commerce Center, LLC, Unser/Central Partners, LLP, AD Albuquerque Development, LLC, Russell A D Development Group, LLC, Copper Sage Commerce Center LLC, Freeway 101 USA Investors, LLC, Boise/Gowen 93, LLC, DER NV Invesco, LLC, Fwy 101 Loop RAR Investment, LLC, BG/93 Investments, LLC, and SVRB Investments, LLC (collectively, “**the Russell Entities**”) pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure; and it appearing that the Court has jurisdiction to consider the Motion and the relief requested therein; and due notice of the Motion and the hearing to be held thereon having been served to all parties entitled thereto in accordance with the Bankruptcy Rules and this Court’s Local Rules, and no other or further notice need be given; and a hearing having been held before this Court; and the Court having concluded that the Settlement Agreement (as such term is defined in the Motion) is the result of good faith arm’s-length bargaining and not the product of fraud or collusion; and it appearing that the relief requested in the Motion is in the best interest of the estates and the beneficiaries of the USACM Trust, and upon the proceedings before the Court; and good and sufficient cause appearing therefor, it is

ORDERED that the Motion to Approve Settlement is granted; and it is further

1           ORDERED that the Settlement Agreement as described in the Motion is authorized and  
2 approved pursuant to Bankruptcy Rule 9019; and it is further

3           ORDERED that within 10 business days after the entry of this Order, claim number  
4 10725-00493 by Robert A. Russell against USACM in the amount of \$140,000 and claim  
5 number 10725-01088 by Robert A. Russell against USACM in the amount of \$140,000, and  
6 claims numbers 10725-0792 and 10725-0792-2 by Copper Sage Commerce Center LLC against  
7 USACM in the amount of \$3,500,000 shall be withdrawn; and it is further

8  
9           ORDERED that this case shall remain on the docket in an inactive status until the  
10 Promissory Note referenced attached to the Settlement Agreement is paid in full by Defendant  
11 Robert Russell; and it is further

12           ORDERED that Geoffrey L. Berman, in his capacity as the Court-appointed trustee of the  
13 USACM Trust, is authorized to execute, deliver, implement, and fully perform any and all  
14 obligations, instruments, documents and papers and to take any and all actions reasonably  
15 necessary to consummate the Settlement Agreement and perform any and all obligations  
16 contemplated therein on behalf of the USACM Trust.  
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1 PREPARED AND SUBMITTED:

2 DIAMOND MCCARTHY LLP

3  
4 By: /s/ Barbara Whiten Balliette  
Allan B. Diamond, TX 05801800 (pro hac vice)  
5 William T. Reid, IV, TX 00788817 (pro hac vice)  
Eric D. Madden, TX 24013079 (pro hac vice)  
6 Barbara Whiten Balliette, TX 00788660 (pro hac vice)  
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10 Special Litigation Counsel for  
USACM Liquidating Trust  
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CERTIFICATION PURSUANT TO LOCAL RULE 9021

In accordance with LR 9021, counsel submitting this document certifies as follows  
(check one):

\_\_\_\_\_ The court has waived the requirement of approval under LR 9021

\_\_\_\_\_ No parties appeared or filed written objections, and there is no trustee appointed in the case.

  X   I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document.]

Scott A. McGath \_\_\_\_\_ Approved

DATED: September 30, 2009

\_\_\_\_\_  
*/s/ Barbara Whiten Balliette*  
Barbara Whiten Balliette  
Counsel for the USACM Liquidating Trust

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